

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 4622 of 2020

Basanta Kumar Nahak

....

Petitioner

Mr. A.R. Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

04.04.2022

Order No.

14.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is an accused in C.T. Case No.33 of 2020, on the files of learned District & Sessions Judge-cum-Special Judge, Phulbani, arising out of Phiringia P.S. Case No.48 of 2020, under Sections 20(b)(ii)(c)/25 and 29 of NDPS Act and is in custody since 22.06.2020.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned District & Sessions Judge-cum-Special Judge, Phulbani, by order dated 29.06.2020 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner relying on the statements of Sub-Inspector Mr. Raul and the Executive Magistrate states that there has been no seizure on personal

search from the accused of any contraband and so far as counter fit currency is concerned, it is submitted that the same has been recovered from the other co-accused Madhusudan Digal and Balabhadra Sahani.

6. Such statement is not disputed by the learned counsel for the State.

7. Learned counsel of the petitioner submits that the petitioner is in custody since 22.06.2020 and trial has not commenced and conscious exclusive possession cannot be attributed to him, as such the bar under Section 37 of the NDPS Act won't come into play in the case at hand.

8. Learned counsel for the State opposes the move stating that at this stage the role played by the petitioner cannot be gone into by the Court in view of the statutory bar enacted by the legislature under Section 37 of the NDPS Act.

9. Taking into account the rival submissions and cognizant of the fact that trial has not commenced, this Court directs the petitioner to be released on bail on such terms to be fixed by the Court in seisin of the matter.

10. A copy of charge sheet and the statements adverted to filed by the learned counsel for the petitioner be kept on record.

11. Accordingly, the BLAPL stands disposed of.

12. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

Santoshi